THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5023 of 1997

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the first respondent company in terminating the services of the petitioner vide proceedings No.PIOCI/MNG/KG/283 dated 4.2.1997 basing upon the opinion of second respondent-Medical Board in its reference No.CHKCORP/MED-U/37/565 dated 28/29.1.1997 inconsistent with the opinion expressed by Dr.Sudhir Naik, Professor and Head of Department of Cardiology, Osmania General Hospital as arbitrary and illegal and consequently direct the respondent company to permit the petitioner to continue to work in the company.

There is no necessity of going into all the details.

It appears, in the periodical medical examination conducted by the respondent Company, it was found that the petitioner was suffering with Cardiac problem. The Chief Medical Officer directed the Deputy Medical Superintendent to refer the petitioner to Osmania General Hospital (OGH) for evaluating his fitness vide letter dated 13.10.1995. Pursuant to the said letter, petitioner was required to undergo Coronary Angeogram after obtaining necessary sanction of the respondent company. Accordingly, the Deputy Medical Superintendent referred the petitioner to Dr.Sudhir Naik of OGH for evaluating his fitness condition. Dr.Sudhir Naik certified that the petitioner was fit to join the duty, but the Chief Medical Officer did not permit petitioner to join duty ignoring the fitness certificate issued by Dr.Sudhir Naik.

The learned counsel for respondents submits that since the respondent company had no infrastructure facilities for treating the petitioner, he was referred to OGH and the fitness certificate issued by Dr.Sudhir Naik, Cardiologist of OGH has no binding effect on the

respondents.

It is unfortunate that such a stand is taken by the respondents. Once it is the case of the respondents that there was no infrastructure to treat the petitioner and decide his fitness at their hospital and he was referred to OGH and the Cardiologist of OGH opined that he is fit to hold the post, therefore, the certificate issued by the Cardiologist who treated the petitioner, could not have been brushed aside. Under similar circumstances, this Court in W.P.No.32336 of 1998 considered the matter in detail and found that the services of the petitioner therein could not have been terminated without examining him by the duly constituted Board. In this case, the petitioner was referred to OGH and the Cardiologist of OGH opined that the petitioner was fit to join the duty, but the said opinion was completely ignored and brushed aside by the respondents.

In view of the same, the writ petition is allowed and the impugned order is set aside. The petitioner is entitled for reinstatement into service with all consequential benefits. However, this will not preclude the respondents from re-examining the petitioner by constituting a proper Medical Board and taking a fresh decision and passing appropriate orders in the matter, if necessary. No order as to costs.

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C.V.RAMULU, J

Date: 9.3.2007

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W.P.No.5023 of 1997

9.3.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5023 of 1997

Date: 9th March, 2007

Between:

K.Gopikrishna

.. Petitioner

And

Singareni Collieries Company Ltd.,
represented by its Chairman and Managing
Director, Red Hills, Hyderabad & another.

.. Respondents